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Supreme Court, U.S.
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# In the Supreme Court of the United States

OCTOBER TERM, 1971

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**RALPH B. THOMPSON, ET AL., ETC.,**

*Petitioners,*

VS.

**PEOPLE EX REL. ELMER J. HOFFMAN, NOW JAMES H. CLARK, COUNTY COLLECTOR, ETC., ET AL.,**

*Respondents.*

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## PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF ILLINOIS

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MARGARET E. THOMPSON, his wife
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## PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF ILLINOIS

---

Petitioners Ralph B. Thompson and Margaret E. Thompson, his wife, Pray that a Writ of Certiorari be issued to review the final decision of the Supreme Court of Illinois, in the above entitled case.

### OPINION BELOW

There was no opinion below.

## JURISDICTION

The judgment of the Supreme Court of Illinois was entered May 25, 1971. (App. B, *infra*) A timely Motion for reconsideration was denied June 24, 1971. (App. C, *infra*) This Petition for a Writ of Certiorari will be timely filed on or before September 22, 1971.

The jurisdiction of this court is invoked under 28 U.S.C. 1257 (3).

## QUESTIONS PRESENTED

Where taxpayers have paid their taxes under protest and filed timely objections with the clerk of the Court as prescribed by law, and the court has allowed the objections to be amended to include the amounts of money involved and comply with the law, and set a date for a hearing on the objections as amended and consolidated, were petitioners denied due process of law when the Court dismissed the amendments two days before its scheduled, by court order, hearing on those amendments.

Did the trial court flaunt and abuse its discretion by entering orders dismissing tax cases on the premise that the cases came forth on court order to hear the amended cases, when in reality there were orders entered two days prior dismissing those amendments.

Where the Court has entered an Order on consolidated tax cases, granting a specified time for amendments to be filed may the court allow opposing counsel to separate the cases and dismiss the amendments two days before a court ordered hearing on Motions that are not filed with the clerk of the court.

Where there is no statutory limitation as to what a taxpayer may object to on a tax objection may the court limit the kind of allegations that petitioners may make as to

the levying, collecting, distributing and spending of said tax monies as it affects the private rights and privileges of petitioners without denying Petitioners equal protection of the law, depriving them of their property without due process of law and smothering their rights to petition the government for a redress of grievances as guaranteed by the federal constitution.

Where under the Illinois Constitution the circuit Courts have original jurisdiction in all justiciable matters, may that court refuse to act on questions of law related to statutory non-compliance on the basis that they lack jurisdiction without denying due process of law.

Where the trial court has sustained objections of other tax payers that were based on illegal tax rates for the reason of lack of statutory authority or abuse of statutory authority by the taxing district may it order that an illegal tax rate is an ancillary matter as to Petitioner's tax cases without interfering with judicial fair play guaranteed by the federal constitution.

Where the trial court makes no provisions for placing tax objection cases on court call or docket and the court allows the State's Attorney to present the cases en masse without identifying which case is before the court, and the court dismisses said cases in one lump without allowing Petitioners to present their objections, may the court then enter orders individually and separately on said cases without abusing their statutory authority.

Where the statutes provide for the recorder of deeds to transmit the actual sale price of land and real estate to the assessor for use in determining assessed value for tax purposes may the court refuse petitioner evidence from the recorder's office without denying due process of law.

Where the statute provides that the County Clerk and the taxing districts shall be notified of any hearing, may the trial court set a date for a hearing on a tax objection case without notifying or determining that the taxing districts and the county clerk have been notified, without exceeding its jurisdiction and interfering with judicial fairplay as guaranteed by the federal constitution.

Where there is ample evidence that the tax monies of a taxing district are going to be used to condemn Petitioners' property, and the trial court has already ruled in a prior case that the money could not be accumulated as to that taxing district, but that petitioners could not have administrative review under the Illinois Administrative Review Act of 1945 as amended, but should seek relief on an objection on the tax bill, may the same court refuse to hear the same complaint on a tax objection case without denying due process of law.

Where the Illinois Constitution provides that all process shall be in the name of the People of the State of Illinois may the State's Attorney represent the collector or any other elected official, while not doing so for the People of the State, without vacating his office and denying to Petitioners equal protection of the law as guaranteed by the federal constitution.

Where the law provides that the collector shall publish his intent to apply for a determination of the correctness of the amount on a tax objection case, and then apply to the court for such an order and he has not so published nor applied, may he appear in court to dismiss a taxpayer's objections, without interfering with judicial fairplay as guaranteed by both state and federal constitutions.

Where the court has the statutory duty to determine the right of a matter on a tax objection and then order

the money refunded or distributed to the taxing district, may the court properly rule only on the money without denying equal protection and due process of law to Petitioners and to the People.

Where the statutes provide that taxing districts shall be notified of any hearing on a tax objection where their money is affected may the court enter an order claiming the taxing districts were notified when they were not and there is no evidence that any taxing district has ever been notified of any such hearing in Du Page County, Illinois, without making the court a non-functioning court denying due process and equal protection not only to Petitioners but to all taxpayers and citizens in the county.

Where the statutes provide that taxing districts may appear before the county board of tax review to seek an equalization of assessed values on property in their district and the taxing districts do not so appear, may the court properly rule that Petitioners herein may not seek the same remedy without denying due process and equal protection of the laws.

May the court allow the State's Attorney to present a Notice of Motion for a hearing instanter to overrule tax objections, and then change that to a Notice to set a date for a hearing and before there is a hearing change back to a Motion for a hearing instanter to overrule (which is no hearing at all) without interfering with judicial fair-play as guaranteed to Petitioners by the federal constitution.

Where there is a court order for a hearing may the Clerk of the Court fail and refuse to place the case on the court call or docket sheet without denying equal protection and due process of law to Petitioners.

Where evidence of complete statutory non-compliance by the court, and all other respondents is presented to the Supreme Court of Illinois, and the records are in such a condition that appeal can not be had through normal channels and the Supreme Court of Illinois has the duty to see to the proper functioning of the lower courts, may that court deny a Petition or Motion for redress of grievances without stating a reason without denying the right to petition the government for redress of grievances as guaranteed by the First Amendment to the United States Constitution.

Where the Petitioners asked for a refund, a rebate or a correction of illegal practices, may the court properly refuse to consider only the illegal practices without denying due process of law.

Where the statute provides that matters of law and matters of equity may be presented to the court separately may the trial court refuse to hear the matters of law separately without denying due process of law.

May the trial court hold that tax rates of specific taxing districts are illegal as to some taxpayers without holding the rates illegal as to all taxpayers within a taxing district, without denying equal protection of the law not only to petitioners but to all of the People of the State of Illinois.

Where the respondents and the trial court failed to follow statutory procedures do they not exceed their jurisdiction and arbitrarily deny Petitioners their rights under the common law.

Where the Petitioners asked the trial court to state the Statute on which it based its dismissal may the trial court answer the "law", without saying what procedures were not followed and what statutes were not complied with without denying equal protection of the law.

Where the statutes provide that the court must hold a conference within 90 days and the court fails and refuses to do so, may the court retain jurisdiction of the cases after they have been appealed to a higher court without denying to Petitioners equal protection of the laws.

May the trial court disregard the mandates of its own orders without violating the constitutional rights of the Petitioners and all the people of the State of Illinois.

## STATUTES INVOLVED

The statutes involved are: Illinois Revenue Act of 1939, as amended, Chap. 120, sections 675, 675(a), 676 and 716, Ill. Rev. Stat. (App. A. *infra*)

## STATEMENT OF THE CASE

This is a tax objection proceeding brought under the Illinois Revenue Act of 1939, as amended, questioning the validity and seeking a review of the final orders on the grounds that there was an excess and abuse of statutory and constitutional authority, an unjust interference of judicial fair play, denying Petitioners herein the right to Petition the government for a redress of grievances guaranteed by the First Amendment to the United States Constitution; due process and equal protection of the law; depriving Petitioners of their property without due process of law as guaranteed by both state and federal constitutions.

Petitioners' 1967, 1968 and 1969, personal property taxes were paid under protest and objections filed with the Clerk of the Circuit Court of the 18th Judicial Circuit of Du Page County, Illinois. On August 12, 1970, on a Notice with a part of the case numbers of 1968 tax cases, the trial court dismissed the 1967 personal property tax case by overruling a number, on the grounds that no objections were filed, which was untrue. All of the Petitioners' cases

were called to the attention of the court at that time and there was a complete controversy over what was before the court. The cases were all appealed to the Appellate Court of Illinois, Second District, even though Petitioners had the right of direct appeal on revenue matters to the Supreme Court of Illinois both under the Constitution of Illinois and Supreme Court Rules. The reason for this was that Petitioner Margaret E. Thompson had appealed two prior cases that were revenue related to the Illinois Supreme Court and that court transferred both cases to the Appellate Court for lack of constitutional question.

The Appellate Court dismissed that appeal, appeal was denied by the Supreme Court of Illinois, and a motion for reconsideration was denied on May 20, 1971, and the mandate of that court stayed for appeal to this court. A petition for Writ of Certiorari was docketed in this court as *Thompson* v. *Hoffman*, No. 71-234 on August 14, 1971. Petitioners have been advised by the clerk of this court that the Petition could be directed to only one court and it has been directed to the Appellate Court of Illinois, Second District.

This Petition for a Writ of Certiorari is directed to the Supreme Court of Illinois, on actions had in that court and the Circuit Court of the 18th Judicial Circuit after the first appeal was taken. The facts and the statutes are essentially the same in both Petitions.

On December 2, 1970, without notifying the County Clerk or taxing district, and with the first appeal still before the Appellate Court the trial Court ruled that cases could not be appealed until the trial court adjudicated them over Petitioners' objections that the court was in default and that it did not have jurisdiction in the first place because the Collector had not made application and the cases

were in the jurisdiction of the Appellate Court. The 1967 tax case on real estate taxes and the 1968 personal property tax case were set for hearing on February 3, 1971.

The State's Attorney changed this to February 10, 1971. The trial court allowed the State's Attorney to change his tactics. The Notice on the 1967 tax was to set a date for a hearing; the 1968 tax was on a Petition of the collector for a hearing instanter to overrule again claiming no objections were filed. The 1968 real estate tax objections and the 1968 personal property tax objections are the same and there are 23 pages of them. On all of the tax objections every year Petitioners incorporated the previous objections by reference, which is allowed by Illinois Supreme Court Rules. Only the amounts of money would be different in these cases, there could be absolutely no reason to hear the same objection over and over again just to figure the amount of money involved.

On February 10, 1971, the case was not on the court call sheet, and the judge was conducting a lengthy jury trial. Both cases were continued to March 31, 1971.

On Tuesday March 30, 1971, after Petitioners had the Newspaper print that Assistant State's Attorney Blair Varnes had been appointed a Magistrate to the Circuit Court, Mr. Varnes became more polite in that this time he telephoned to say that the Judge (actually he was a magistrate) was out of town for the week and he would set the cases for another hearing, which he did for April 13, 1971.

However before that on or about March 10, 1971, Mr. Varnes called Margaret E. Thompson to his office to talk over the 1968 tax cases. He offered to lower the assessed

valuation if she would drop the remainder of her objections, especially the one on the county donating money to the Northeastern Illinois Planning Commission. He argued that the trial court did not have jurisdiction to enforce statutory compliance and that the proper relief could be obtained by injunction. He was reminded as was the court later that we had a constitutional amendment to the judicial article in 1963, that the trial court had original jurisdiction in all justiciable matters and that it was he who took the cases before a magistrate whose authority was limited, not Petitioners.

At that meeting Mr. Varnes was fully informed of what was going on, including that Petitioners were offered $250,000 dollars for their property by an unknown purchaser in January 1970, if Margaret E. Thompson, would withdraw two cases from the Supreme Court of Illinois, and Petitioners would leave the country. One of those cases is now before this court as *Thompson* v. *County Board of School Trustees of Du Page County, Illinois, et al.,* No. 71-235 the other one has been to the Appellate Court and is back on the Illinois Supreme Court Docket for September 1971. In the case before the Illinois Supreme Court, *Thompson* v. *Board of Commissioners of the Oak Brook Park District,* No. 44330, when Petitioners could not get tax cases heard, in July of 1969, a complaint for administrative review was filed against the Park Board under the Administrative Review Act of 1945, as amended on their 1969 budget and appropriation ordinance, which is the 1969 taxes. The trial court held that money could not be accumulated for the purchase of land but that the proper procedure was a tax objection. So on the above Park Board Case the trial court was advised in October of 1969, that Petitioners had tax objections filed for 1967 and 1968 and that they could not get them heard. The objections

and complaints of the *Park Board* case are incorporated into the tax cases so that Petitioners could be heard in one case or the other when the courts decide which is the proper procedure.

On March 10, 1971 Mr. Varnes also gave Petitioners copies of the Objections of several other taxpayers that had been adjudicated and money refunded to the taxpayer.

On April 13, 1971, Mr. Varnes appeared as Assistant State's Attorney although he was to take his seat on the bench on May 1, 1971.

In the court room Petitioners were never at any time given equal standing with the State's Attorney. Never at any time were they apprised of what was going to happen in court and never at any time were they allowed to present a single solitary objection to the court for the court's consideration.

The Court ruled, on the 1968 personal property tax, which was dismissed on April 13, 1971 and an order entered on April 14, 1971, that it did not have jurisdiction in matters of statutory non-compliance,

> "The Court: Her land is the sole issue before this court."
>
> "The Court: My question is, what jurisdiction do I have in all of these ancillary matters in connection with an objection?"

The court failed to recognize that in every instance where objections of other taxpayers were sustained by the court and money refunded that the taxpayer was alleging statutory excess or abuse or a lack of statutory authority, in objecting to illegal rates.

On April 13, 1971, at the urging of Mr. Varnes the trial court granted Petitioners the right to amend the 1967, 1968 and 1969 real estate taxes and the 1969 personal prop-

erty tax objections to tabulate the money that was involved in each specific objection and although there was complete disagreement over what had to be done to comply with the law, the objections as amended were to comply with the law. The order also set the amended objections for hearing on May 17, 1971. (App. F *infra*)

The court allowed all of the tax objections to be presented by the State's Attorney at the same time without giving the numbers of the cases, so the records are a mess. On April 13, 1971 the trial court again ruled that they had jurisdiction over Petitioners' objections, it ruled that the collector was the plaintiff even though Section 676, of Chapter 120, Ill. Rev. Stat. clearly states that the collector is defendant. The court also ruled that Petitioners had to do something within one year (never saying what), when the statute is also very clear that in counties of more than 1,000,000 a taxpayer has one year to file objections, Du Page County is not in that category and the taxpayer has only until October 1 of the taxing year unless the time is extended by the County Board of Supervisors. Petitioners had filed all objections and petitions for refund within the proper time. Not only that other taxpayers who followed the same procedure, had their personal property tax objections heard on the same day as their real estate taxes when the objections were the same on both real estate and personal property and had money refunded on illegal rates. (App. E *infra*) The orders adjudicating these cases claim that the taxing districts were notified, nothing could be further from the truth. Where money was refunded the taxpayer's attorney was called on the telephone and the date set and no roughing up was given on following procedures. These attorneys were not forced to run into court time after time and experience delay after delay.

The court on April 13, 1971 also refused perfectly valid evidence as to the actual value of land in Oak Brook, land title from the recorder of deed's office.

For evidence acceptable to the court Petitioners bought a copy of the final order on a prior case, *Miller* v. *Fairfield,* No. 65-2188 in the trial court, Rec. 4. Appendix, Page 10, Case No. 44038, Case No. 71-235, *Thompson* v. *County Board of School Trustees,* in this court, wherein the court established the value of land abutting Petitioners. But since this same land was involved in a school boundary change in the above case and had been argued in the trial court in 1969 and that case was before the Supreme Court of Illinois with the same State's Attorney as counsel for the defense, the order was appended to a Motion to reconsider in that case. The order not only shows the value of the land, it reveals that the trial court was to retain jurisdiction of the sale, which the trial court did not do, causing immense injury to the Petitioners.

A new Assistant State's Attorney was assigned to the tax cases even more inexperienced in court room practice than Petitioner Margaret E. Thompson, who is not an attorney at law, if that is possible.

The new assistant mailed what he called a Notice and Motion to dismiss amendments, on May 10, 1971 to appear in court on May 13, 1971, he was telephoned by Petitioners, that they could not be there, both being self employed, and that there was a a court ordered hearing on May 17, 1971, could he please wait those few days, when he very arrongantly refused, he was told where to go, the cases were under court order.

There were four separate orders entered on four separated cases on May 14, 1971, (App. D, *infra*) dismissing Petitioners' amendments by default. There is no official transcript of what happened in court. On May 17, 1971 there was no record in the clerk of the court's office of the orders nor were Notices and Motions filed.

On May 17, 1971, Petitioners appeared in the trial court on a Petition for rehearing on the 1968 Personal Property tax Petition for Refund which had been dismissed on April 14, 1971, on the grounds that other taxpayers had been heard and that Petitioners were being denied their constitutional rights, that the court's order was contrary to rulings of this court in, *Barlow* v. *Collins*, 1970, 25 L. Ed. 2d, 192, and *Assoc. of Data Processing* v. *William V. Camp, etc.*, 1970, 25 L. Ed. 2d, 185 which state that injury can be in many forms, economic and otherwise but also contrary to *White* v. *Board of Appeals*, 1970, 45 Ill. 2d, 192, which states that judicial review can be had on a tax objection. There was a complete lack of intelligence on the part of both the State's Attorney and the Magistrate, (I can not call him the court or the presiding judge because he did not call court to order and there was no clerk present), as to what judicial review meant, that it means exactly what it says, that the circuit court had the right to review what the taxing districts had done, and the Petitioners had the right to ask the trial court for such review on a tax objection.

The above Petition for rehearing and all the real estate cases were presented to the court by the State's Attorney over Petitioners' objections that they should present their own cases.

The court ruled that the Petitioners did not comply with the law, in a blanket fashion on all cases at the same time, without allowing Petitioners to present any evidence

or bring up a single point. No case law nor statutes were cited by either the Court (Magistrate), or the State's Attorney. There is over $13,000,000.00 dollars in the county treasury put there by the collector that there is no doubt belongs to the school districts of the county, there is over $5,000,000, of county general and road funds that were held illegal by this same magistrate on the objections of other taxpayers for 1967, 1968 and 1969. God alone knows what fantastic sums are involved in all the cases he ruled on between August 12, 1970 and May 17, 1971. There were cases running all the way back to 1949. On April 13, 1971, the official transcript shows that a stack of these were signed by the magistrate. They were orders by agreement between the railroads and the State's Attorney. The papers were being signed during the entire time that testimony was given on that day.

After the hearing on May 17, 1971, where the magistrate had told the State's Attorney he could file his orders the following day, the official transcript says *nunc pro tunc*, but you can tell the transcript has been altered, those words were never used in the trial court. Petitioners checked the records in the clerk's office only to find no papers of the State's Attorney were filed. He was confronted in the collector's office and a shouting match ensued with plenty of witnesses wherein he insisted that he did not have to file his papers with the clerk, he only had to serve them on Petitioners.

The first appeal was at this time still in the Supreme Court of Illinois. Petitioners waited until the 21st of May to receive copies of orders that were to be entered on May 18, 1971, when they were not forthcoming a Petition for Redress of Grievances was filed in the Supreme Court of Illinois. On May 24, 1971, Petitioner received copies

of some of the Motions, Notices and Orders entered *nunc pro tunc,* on May 20, 1971, in the trial court, without any Notice to Petitioners. (App. D *infra*) On May 25, 1971, the Petition changed by the court to a Motion for redress of grievances was denied, on the 26 or 27 of May the State's Attorney filed a Motion to strike the Petition in the Supreme Court, this was returned to the State's Attorney as was Petitioners' objections to that Motion. Petitioners then filed a Motion to reconsider the order denying Motion for redress of grievances and this was denied on June 24, 1971.

Petitioners have exhausted the possibility of obtaining relief in the Illinois courts.

The facts in case No. 71-234 are incorporated herein as though fully set forth herein and made a part of this petition.

The records in this case were submitted to this court with the above Petition, 71-234, *Thompson* v. *Hoffman.*

The trial court records are not in a condition so that appeal may be had through normal channels.

## REASONS FOR GRANTING THE WRIT

The trial court whose judgment is affirmed by the silent denial of Petitioners' Motion for redress of grievances by the Supreme Court of Illinois has exceeded and abused its statutory authority and lacks jurisdiction to deny petitioners herein the right to a fair trial and a proper hearing after a conference.

The Courts in Illinois are out of line in flaunting and disregarding their own court orders, not only in complying with the order to hear Petitioners' amended objections, but in other orders entered by the trial court such as the one named above on retaining jurisdiction of the sale of land.

Statutory compliance is a judicial process and not a legislative one, if the trial court does not have jurisdiction to compel statutory compliance, we might as well toss in the sponge. *People Ex Rel Norland* v. *Home for the Aged,* 40 Ill. 2nd, 92, on Page 99, "Compliance or non-compliance is a judicial function that may not be usurped by the legislature."

The Orders of the trial court that Petitioners' objections are ancillary matters and irrelevant or contrary to the two rulings of this court in 1970, *Barlow* v. *Collins* and *Data Processing* v. *William V. Camp,* cited above in that injury can be aesthetic, conservational, religious, and many others it need not be entirely a matter of money, especially where there is no statutory limitation on what may be objected to.

The Illinois courts have shown complete prejudice not only to Petitioners but to many other Illinois taxpayers in allowing a double standard of hearings which permits some taxpayers to be heard and others not.

The respondents have not complied with a single statutory requirement of the Revenue act with respect to tax objections and they are being allowed to create tremendous chaos in the county, through the courts.

The Petitioners have the right to remedy and justice, have exhausted all possibility of obtaining relief in the lower courts, are sustaining severe damages by inequalities in assessments and by statutory non-compliance of the taxing districts and respondents.

It is submitted that all things in government are related to the taxing authority of the various taxing districts, and Illinois has seen fit to allow taxpayers to complain if they are dissatisfied or feel that they are being unjustly taxed or injured; that the questions submitted are very substantial. That the questions can insure that not only Petitioners can be heard on their complaints but all people in Illinois can be heard.

For all the reasons set forth in Petition 71-234, *Thompson* v. *Hoffman*, pp. 31 to 35, said reasons are incorporated herein and made a part hereof to save duplication.

It is submitted that for the above reasons this writ should be granted.

## CONCLUSION

For the foregoing reasons, Petitioners pray that this Court issue its Writ of Certiorari to review the judgment of the Supreme Court of Illinois, in this case.

Respectfully submitted,

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*Petitioners*

## APPENDIX A

Chapter 28, Ill. Rev. Stat., 1969, provides:

1. Rule of decision.] § 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly:* That the common law of England, so far as the same is applicable and of a general nature, and all statutes or acts of the British parliament made in aid of, and to supply the defects of the common law, prior to the fourth year of James the First, excepting the second section of the sixth chapter of 43d Elizabeth, the eighth chapter of 13th Elizabeth, and ninth chapter of 37th Henry Eighth, and which are of a general nature and not local to that kingdom, shall be the rule of decision, and shall be considered as of full force until repealed by legislative authority.

### REVENUE ACT

Chapter 120, Sections 675, 675(a), 676, 716:

§675. Payment of taxes—Payments under protest.] § 194. Current taxes on real property shall be payable in 2 equal installments. The collector, when so requested by the party paying the taxes, shall receive and receipt for such taxes in installments. The collector shall receive taxes on part of any lot, piece or parcel of land charged with taxes when a particular specification of the part is furnished. If the tax on the remainder of such lot or parcel of land remains unpaid, the collector shall enter such specification in his return, so that the part on which the tax remains unpaid may be clearly known. The tax may be paid on an undivided share of real estate. In such case the collector shall

designate on his record upon whose undivided share the tax has been paid.

If any person desires to object pursuant to Section 235 of this Act[1] to all or any part of a real property tax for any year, for any reason other than that the real estate is not subject to taxation, he shall first pay all of the tax installments due, and such payment shall be accompanied by a writing, substantially in the following form:

*Payment under Protest*

Vol. No. ..... Item No. .....
(as the same appear on the General Tax Bill). Original amount of tax $..... Amount of payment $.....
This payment shall be applied to the taxes of all taxing bodies ratably subject to refund of .....% of the tax, which is objected to on the ground (here set forth ground of objection) and is, accordingly, made under protest.

Name of taxpayer .....
Address .....

The person protesting shall present to the collector 2 copies of the written protest signed by himself. The collector shall write or stamp the date of receiving the same upon the copies, and sign the same, one of which copies he shall retain and the other he shall deliver to the person making the payment under protest.

The person paying real estate taxes under protest shall appear in the next application for judgment and order of sale and object to the taxes in relation to which the protest is made, and upon his failure so to do, the protest shall be waived, and judgment and order of sale entered for any unpaid balance of such taxes.

When any such objection is filed in a county of fewer than 1,000,000 inhabitants, there shall also be filed a duplicate copy for the use of the State's Attorney and a triplicate copy for the use of the county clerk of such county. Any such objection or amendment thereto filed in a county of fewer than 1,000,000 inhabitants shall contain on the first page thereof a listing of the tax levying units against which the objection is directed. Within 10 days thereafter the clerk of the circuit court shall deliver one copy to the State's Attorney and one copy to the county clerk, taking their receipts therefor. The county clerk shall, within 30 days from the last day for the filing of objections, notify the duly elected or appointed custodian of funds for each tax levying unit, whose tax monies may be affected by such objection, that such objection has been filed. Any amendment filed to such objection, except any amendment permitted to be made in open court during the course of a hearing on such objection, shall likewise be filed in triplicate, with the duplicate copy delivered to the State's Attorney and the triplicate copy delivered to the county clerk by the clerk of the circuit court as hereinabove provided in the case of original objections, and the State's Attorney shall within 10 days of receiving his copy of such amendment notify the duly elected or appointed custodian of funds for each tax levying unit whose tax monies may be affected by such amendment that such amendment has been filed. The State's Attorney shall also notify such custodian and the county clerk in writing of the date, time and place of any hearing before the court to be held upon such objection or amended objection not later than 4 days prior to the hearing thereon. The notices provided herein shall be by letter addressed to such custodian or the county clerk and may be mailed by regular mail, postage prepaid, postmarked within the 30 day period or the 10 day period, as the case may be, but not less than 4 days before a hearing.

In all counties, when the taxpayer appears and files objection, the court shall, after first determining that due notice, if required, has been given to the tax levying unit, hear and determine the matter according to the right of the case and enter judgment for any part of the taxes, or order a refund of any part of the taxes, so paid under protest. Appeals shall lie from such orders of the court as in other cases of objection to judgment and order of sale for taxes. Refunds shall be made by the collector in accordance with the final orders of the court, and the amount of such refunds shall be deducted from the taxes of the taxing bodies whose taxes were adjudged illegal, in the same or a subsequent year. Proceedings upon objections filed under this Section are subject to Section 194a.[2]

Where any tax is paid in full and protested as herein provided before the delinquent taxes are transcribed into the tax judgment, sale, redemption and forfeiture record, and the taxpayer appears and files objection, the collector, within such time as may be fixed by the court, shall file a transcript from the tax warrant book showing the tax, and such transcript shall be an amendment to the tax judgment, sale, redemption and forfeiture record, and the case shall proceed as if the tax had been originally transcribed therein.

In the payment of real or personal property taxes or any installment of real property taxes, the collector shall first apply such payments to interest (including interest added upon forfeiture to real property taxes) and costs, and after the payment of interest and costs such payments shall be applied upon the total tax of real or personal property upon which the payments are made.

No protest shall prevent or be a cause to delay in the distribution of tax collections among the taxing bodies of

any taxes collected which were not paid under protest. The collector may withhold from distribution the amounts paid under protest or 1% of the total taxes collected, whichever is less. The collector shall deduct from the taxes of any taxing body for any year the amount of any tax for any year held illegal by the final order of a court, and use the amount deducted to equalize the distribution.

Amended by act approved Sept. 6, 1968. L.1968, p. 397, § 1 and P.A. 76-1460, § 1, eff. Sept. 22, 1969.

[1] Chapter 120, § 716.

[2] Chapter 120, § 675a.

§ 675a. Hearing upon objection to tax or petition for refund—Time—Compromise agreements.] § 194a. Upon the filing of an objection under Section 194[1] or a petition for refund under Section 195,[2] the court must, unless the matter has been sooner disposed of, within 90 days after such filing hold a conference between the objector or petitioner and the State's Attorney. If no agreement is reached at the conference, the court must, upon the demand of either the taxpayer or the State's Attorney, set the matter for hearing within 90 days of the demand. Compromise agreements on tax objections reached by conference between the objector or petitioner and the State's Attorney shall be filed with the court, and the State's Attorney shall prepare an order covering the settlement and file same with the clerk of the court within 15 days following said conference.

Added by act approved April 11, 1967. L.1967, p. 230.

[1] Chapter 120, § 675.

[2] Chapter 120, § 676.

§ 676. Contest of personal property tax.] § 195. Any person desiring to contest personal property taxes because of illegal tax rates shall be required to pay the same under protest. Any payment of personal property taxes under

protest shall be accompanied by 2 copies of a written protest in substantially the following form:

..... Collector of

.....

..... Illinois

Payment of Personal Property Taxes Under Protest

Dear Sir:

I pay you herewith $....., which I direct you to apply upon my personal property taxes described in Volume .....,
Item ....., of your personal property Warrant Books for the year ..... $..... of this payment is made under protest.

.....
Name of Taxpayer

.....
Address

RECEIVED:

The collector shall receipt one copy of the protest and return the same to the taxpayer and shall retain the other copy for his files. At the time the various town collectors deliver their warrant books to the county collector, they shall also pay over to him all moneys paid under protest as aforesaid, and shall deliver to him all copies of such protests which have been filed with them. Only the part of the payment which is made under protest or 1% of the total taxes collected, whichever is less, may be withheld

from distribution and the balance thereof shall be promptly distributed to the taxing bodies entitled thereto.

At any time within one year from the date of paying personal property taxes under protest in a county of 1,000,000 inhabitants or more, and in a county having fewer than 1,000,000 inhabitants at any time prior to the last day for the filing of objections under Section 194,[1] any person paying the same under protest may file a petition in the circuit court for the county where the payment under protest was made, praying for the return of all or any part of the personal property taxes so paid under protest. Any number of taxpayers having common grounds for refund may join in one petition. If no such petition is filed within such time, the protest shall be deemed abandoned and the county collector shall distribute the moneys so withheld to the various taxing bodies entitled thereto. *The petition shall make the county collector a defendant thereto*, and the process, practice and procedure with reference to the petition shall be the same as in other civil cases. In counties of fewer than 1,000,000 inhabitants, the county collector shall forthwith deliver to the county clerk of such county the process or other documents served upon him in the matter, and the State's Attorney of that county shall within 10 days after receipt of any process, petition or other document notify the duly elected or appointed custodian of funds for each tax levying unit whose taxes may be affected by such proceeding, to the effect that the proceeding has been filed. Any such petition for return of taxes, and all amendments thereto filed in a county of fewer than 1,000,000 inhabitants shall contain on the first page thereof a listing of the tax levying units whose taxes may be affected by such petition or amendment. Any amendment to any petition in such a proceeding shall be filed in duplicate for the use of the State's Attorney in the county, except

for any amendment made in open court during the course of any hearing thereon, and the State's Attorney shall likewise notify the custodian of the funds for each tax levying unit whose taxes may be affected by such amendment, except for any amendment made in open court during the course of any hearing thereon, within 10 days after receipt of such amendment. Such notice as provided herein may be in the form of a letter addressed to the duly elected or appointed custodian of the funds for the tax levying unit, and may be sent by regular United States Mail, postage prepaid, and a postmarking of that letter within the 10 day period shall be deemed in compliance herewith. The State's Attorney shall also notify that custodian of the date, time and place of any hearing to be held upon the petition, or amended petition, by letter addressed to the custodian mailed by regular United States Mail, and postmarked not later than 4 days prior to such hearing.

In all counties, the court shall after first determining that due notice, if required, has been given to the tax levying units as aforesaid, hear the petition and shall pronounce judgment as the right of the case may be, and if the court finds for the petitioner, it shall enter judgment directing the county collector to refund to the taxpayer from taxes withheld from distribution to the taxing bodies entitled thereto the amount of the personal property taxes paid under protest to which the taxpayer is entitled. Appeals shall lie from the final judgment of the court upon such petitions, as in other cases of objection to judgment and order of sale for taxes.

Proceedings upon a petition under this Section are subject to Section 194a.[2]

Amended by P.A. 76-1460, § 1, eff. Sept. 22, 1969.

[1] Chapter 120, § 675.

[2] Chapter 120, §675a.

Note:—Section 716 has been amended as of July 1, 1970, as shown by italics.

§ 716. Proceedings by court—Form of order—Cure of error or informality

The court shall examine said list, and if defense (specifying, in writing, the particular cause of objection) be offered by any person interested in any of said lands or lots, to the entry of judgment against the same, the court shall hear and determine the matter in a summary manner, without pleadings, and shall pronounce judgment as the right of the case may be: Provided, that no person shall be permitted to offer any such defense unless such writing specifying the particular cause of objection shall be accompanied by an official original or duplicate tax collector's receipt, showing that all taxes to which objection is made have been paid under protest pursuant to the provisions of section 194 of this Act;[1] and it shall be the duty of all tax collectors to furnish such duplicate receipt without charge.

*If any party objecting to any tax paid under protest is entitled to a refund of the amount, or any part thereof, so paid under protest, the court shall enter judgment accordingly. The court shall give judgment for such taxes and special assessments and penalties as shall appear to be due, and such judgment shall be considered as a several judgment against each tract or lot or part of a tract or lot, for each kind of tax or special assessment included therein; and the court shall direct the clerk to make out and enter an order for the sale of such real property against which judgment is given, which shall be substantially in the following form:*

Whereas, due notice has been given of the intended application for a judgment against said lands and lots, and

no sufficient defense having been made, or cause shown why judgment should not be entered against said lands and lots, for taxes (special assessment, if any), interest, penalties and costs due and unpaid thereon for the year or years herein set forth, therefore it is considered by the court that judgment be and is hereby entered against the aforesaid tract, or tracts, or lots of land, or parts of tracts or lots (as the case may be), in favor of the People of the State of Illinois, for the sum annexed to each, being the amount of taxes (and special assessments, if any), interest, penalties and costs due severally thereon; and it is ordered by the court that the said several tracts or lots of land, or so much of each of them as shall be sufficient to satisfy the amount of taxes (and special assessments, if any), interest, penalties and costs annexed to them severally, be sold as the law directs.

## APPENDIX B

**Final judgment of Supreme Court of Illinois in Petition for Redress of Grievances, Case No. 44360, Dated May 25, 1971.**

And now, on this day, the Court having duly considered the motion by petitioners for redress of grievances, and being fully advised of and concerning the premises;

IT IS HEREBY ORDERED that the motion by petitioners for redress of grievances be, and the same is, denied.

## APPENDIX C

**Denial of reconsideration of Petition for Redress of Grievances. Dated June 24, 1971.**

And now, on this day, the Court having duly considered the motion by petitioners for reconsideration of the order denying motion for redress of grievances, and being fully advised of and concerning the premises;

IT IS HEREBY ORDERED that the motion by petitioners for reconsideration of the order denying motion for redress of grievances be, and the same is, denied.

## APPENDIX D

State of Illinois )
) SS
County of Du Page )

IN THE EIGHTEENTH JUDICIAL CIRCUIT,
DU PAGE COUNTY WHEATON, ILLINOIS.

In the Matter of the Application of James H. Clark, County Collector, for a Judgment of Sale and Lots Delinquent in Payment of Taxes for the Year 1968.

Margaret E. Thompson and Ralph B. Thompson,
Objectors.

NO. C 69-484-99 — RE: 1968 Real Estate Taxes

ORDER

This cause coming on to be heard on Motion of William V. Hopf, State's Attorney of DuPage County by Francis F. Fiore, Assistant State's Attorney, to dismiss amendments to objections submitted and filed on or about April 30, 1971, and due and proper notice having been given Margaret E. Thompson and Ralph B. Thompson, Objectors, and Margaret E. Thompson, Pro-se, and they having failed to appear, and the Court being fully advised in the premises, and the Court having jurisdiction of the parties and subject matter, the Court finds;

That Ralph B. Thompson and Margaret E. Thompson, Objectors, are in default, as due in proper notice of hearing on motion was given and they failed to appear, either pro-se, or by counsel.

That the Motion by William V. Hopf, State's Attorney of DuPage County, by Francis F. Fiore, Assistant State's Attorney, that the amendments as submitted in this matter on or about April 30, 1971, be stricken, be and hereby is granted.

Therefore it is ordered that the amendments filed on or about April 30, 1971, be, and hereby are stricken from the pleadings in this matter.

Entered 5/14/71 *G. Borovic*
Judge

State of Illinois )
) SS
County of Du Page )

IN THE EIGHTEENTH JUDICIAL CIRCUIT,
DU PAGE COUNTY WHEATON, ILLINOIS.

In the Matter of the Application of James H. Clark, County Collector, for a Judgment of Sale and Lots Delinquent in Payment Of Taxes For The Year 1969.

Margaret E. Thompson and Ralph B. Thompson,
Objectors.

NO. C70-695-51B — RE: 1969 Personal Property Taxes.

MOTION

Now comes James H. Clark, County Collector for Du Page County, by William V. Hopf, State's Attorney, by Francis F. Fiore, Assistant State's Attorney, and represents the Court as follows:

1. That the attached Notice of Motion and Motion were not filed with the Clerk of this Court or 5/10/71, when the

attached Notice of Motion and Motion were served on Objectors in this matter.

2. That the Court file in this matter would be clarified if said notice of motion and motion were filed as of the date of the services of said Notice and Motion.

3. Wherefore, James H. Clark, County Collector, by William V. Hopf, State's Attorney, by Francis F. Fiore, Assistant State's Attorney, moves this Court to enter an order commanding the clerk of the Court to file said notice of motion and motion nunc pro tunc as of the 10th day of May, 1971.

James H. Clark
County Collector Du Page County

By: William V. Hopf
State's Attorney Du Page County

By: .....
Francis F. Fiore
Assistant State's Attorney
His attorney, supported
Dated: 5/20/71 by evidence put forth.

State of Illinois )
) SS
County of Du Page )

IN THE EIGHTEENTH JUDICIAL CIRCUIT,
DU PAGE COUNTY WHEATON, ILLINOIS.

In the Matter of the Application of James H. Clark, County Collector, for a Judgment of Sale and Lots Delinquent in Payment of Taxes for the Year 1968.

Margaret E. Thompson and Ralph B. Thompson,
Objectors.

No. C69-484-99 — RE: 1968 Real Estate Taxes.

ORDER

IT IS HEREBY ORDERED That the Clerk of this Court shall forthwith file this Notice of Motion and Motion nunc pro tunc as of this 17th day of May, 1971.

Dated: This 20th day of May, 1971.

Entered:

*G. Borovic*

State of Illinois )
) SS
County of Du Page )

IN THE EIGHTEENTH JUDICIAL CIRCUIT,
DU PAGE COUNTY WHEATON, ILLINOIS.

In the Matter of the Application of James H. Clark, County Collector, for a Judgment of Sale and Lots Delinquent in Payment of Taxes for the Year 1968.

Margaret E. Thompson and Ralph B. Thompson,
Objectors

NO. C69-484-99 — RE: 1968 Real Estate Taxes.

ORDER

This matter coming on to be heard on amended objections submitted by objectors pursuant to order of this Court of 4/14/71, and original objections, and the Court, having jurisdiction of the subject matter and the parties, and all necessary interested parties being present, and the Court having considered the amendments filed on or about 4/30/71, and the original objections, and the written motion by County Collector to dismiss the amendments and said motion submitted in open court, and having heretofore been timely served on objectors, and the Court having heard oral arguments by objector and County Collector, and the Court having considered the objections as submitted prior to 4/30/71, and being fully advised in the premises, and the County Collector having also moved to overrule the objections submitted prior to 4/30/71, the Court finds:

That none of the objections filed have any validity at law as proper objections of law, and include irrelevant and ancillary matters, not germane to a tax objection proceeding, such as validity of tax rates, and other irrelevant, incompetent and ancillary matters.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the County Collector's motion to strike the amendments submitted on or about 4/30/71, be, and hereby is, granted.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED, that the amendments to objections submitted on or about 4/30/71 be and hereby, are stricken.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the motion by County Collector to overrule objections be, and hereby is granted.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Objections as submitted prior to 4/30/71 be, and hereby are, overruled.

IT IS FURTHER ORDERED that the Clerk of this Court shall forthwith file this order nunc pro tunc as of the 17th day of May, 1971.

Dated: May 20, 1971

*G. Borovic*
Judge

State of Illinois )
) SS
County of Du Page )

IN THE EIGHTEENTH JUDICIAL CIRCUIT,
DU PAGE COUNTY WHEATON, ILLINOIS.

In the Matter of the Application of Elmer J. Hoffman, County Collector, for a Judgment of Sale and Lots Delinquent in Payment of Taxes for the Year 1968.

Margaret E. Thompson and Ralph B. Thompson,
Objectors.

NO. C69-484-98 — Book 136 — Bill 11515

RE: 1968 Personal Property Taxes.

ORDER

This cause coming on to be heard on motion of Ralph B. Thompson, and Margaret E. Thompson, pro se, for a rehearing on this matter, and praying that court vacate a certain order of 4/14/71 overruling protest and objections, and the Court being fully advised in the premises, and having jurisdiction over the parties and subject matter, and parties being present in open Court, and oral argument being heard by the Court, and the County Collector having moved the Court to deny rehearing and vacation of judgment, the Court finds:

1. Fact that present caption of case shows James H. Clark, present County Collector, rather than county collector at time of original objection is not proper grounds for rehearing or vacation of order, and that successor to elected office assumes burden of predecessor.

2. Present objector cannot avail themselves of fact that in a separate tax objection case by different parties, some extension had been held illegal, where objector did not follow proper procedure.

3. That petition for consideration of all cases County Collector has against objectors is improper and not in accordance with procedure.

THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED, that objectors, motion for rehearing be and hereby, is denied.

THEREFORE, IT IS FURTHER ORDERED, that Objectors motion to vacate order entered 4/14/71 be, and hereby is denied.

Dated: 5/20/71

*G. Borovic*
Judge

## APPENDIX E

18th JUDICIAL CIRCUIT, COUNTY OF DU PAGE
STATE OF ILLINOIS

IN THE MATTER OF THE APPLICATION OF THE COUNTY COLLECTOR OF DU PAGE COUNTY FOR JUDGMENT FOR DELINQUENT TAXES FOR THE YEAR 1967.

No. C-68-859-506

( der adjudicating similar tax objections filed in same year in same procedure.

### ORDER ADJUDICATING OBJECTIONS OF CHICAGO BRIDGE & IRON CO. AND PETITION FOR REFUND OF PERSONAL PROPERTY TAXES

This matter coming on to be heard upon the above application for judgment and upon the objections of the above named objector; and the Court having considered said objections and having heard the evidence and arguments, and being now advised, FINDS that due notice of the hearing on said objections has been given to the tax levying units and the interested parties, and that this Court has jurisdiction of the parties to and subject matter of this proceeding;

And the Court further FINDS that objector owns property assessed and taxed for said year as hereinafter speci-

fied; that objector deposited and paid to said County Collector under protest all of the taxes objected to, and specified in writing the particular causes of objection to said taxes and to judgment therefor; and the Court further FINDS that said objections should be in whole or in part overruled or sustained, or withdrawn or reserved for later decision as hereinafter tabulated.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED, that said objections be, and are hereby in whole or in part overruled or sustained, or withdrawn or reserved for later decision, as hereinafter tabulated; that said County Collector be, and is hereby authorized and directed to refund to said objector the total amount of objections sustained, and to distribute to the tax districts entitled thereto the rest of the taxes objected to, other than taxes to which objections are reserved; and that said refund and distribution be made instanter, the parties having stipulated in open Court that no appeal shall be taken from this Order.

ENTER this 28th day of January, 1971.

*G. Borovic*
Judge

## APPENDIX F

IN THE EIGHTEENTH JUDICIAL CIRCUIT,
DU PAGE COUNTY, WHEATON, ILLINOIS

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In the Matter of Application of James Clark, County Collector for judgment and sale etc. 1967, 1968, 1969

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No.

| | |
|---|---|
| 68-859-470 | Real estate |
| 69-484- 99 | " " |
| 70-695- 51 | " " |
| 70-695- 51 | Personal Property |

---

ORDER

This Cause Coming on to be heard on the Motion of Ralph B. Thompson and Margaret E. Thompson, pro se, Objectors herein, and the court being fully advised in the matter and having jurisdiction of the subject matter

It Is Hereby Ordered that Objector has until April 30, 1971 to file and amendment to the 1967, 1968 and 1969 tax objections.

It is hereby further Ordered that hearing on the Amended Objections be and hereby is set for May 17, 1971.

LIBRARY
SUPREME COURT, U. S.

Supreme Court, U.S.
FILED
DEC 31 1971
E. ROBERT SEAVER, CLERK

No. 71-398

# In the Supreme Court of the United States

OCTOBER TERM, 1971

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**RALPH B. THOMPSON, ET AL., ETC.,**

*Petitioners,*

VS.

**PEOPLE EX REL. ELMER J. HOFFMAN, NOW JAMES H. CLARK, COUNTY COLLECTOR, ETC., ET AL.,**

*Respondents.*

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On Petition For A Writ Of Certiorari To The Supreme Court Of Illinois

---

## PETITION FOR REHEARING OF THE ORDER DENYING CERTIORARI

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RALPH B. THOMPSON and
MARGARET E. THOMPSON, his wife
Box 133
Hinsdale, Illinois 60521
*Petitioners, Pro Se.*

UNITED STATES LAW PRINTING CO., CHICAGO, ILLINOIS 60618 (312) 525-6581

# In the Supreme Court of the United States

OCTOBER TERM, 1971

## No. 71-398

**RALPH B. THOMPSON, ET AL., ETC.,**

*Petitioners,*

VS.

**PEOPLE EX REL. ELMER J. HOFFMAN, NOW JAMES H. CLARK, COUNTY COLLECTOR, ETC., ET AL.,**

*Respondents.*

On Petition For A Writ Of Certiorari To The Supreme Court Of Illinois

## PETITION FOR REHEARING OF THE ORDER DENYING CERTIORARI

Now come the Petitioners, Ralph B. Thompson and Margaret E. Thompson, pro se, pursuant to Supreme Court Rule 58 and petition for a rehearing of the order denying certiorari on December 7, 1971, and as grounds therefor, state as follows:

I. That other substantial grounds were available to petitioners although not previously presented in the above Petition For A Writ of Certiorari to the Illinois Supreme Court.

That the Petitioners overlooked and did not refer to the constitutional questions that arose "for the first time in and as a result of action in the Appellate Court", which made appeal from the Appellate Court to the Supreme Court a guaranteed right in the following instances: Ill. Const. 1970, Article VI, Sec. 4(c) (Article VI, Sec. 5, Ill. Const. 1870).

1. None of the Appellate Court judgments were final and entered by that court on the date the decisions were made in violation of Chap. 37, Sec. 41, Ill. Rev. Stat., in violation of the Due Process clause of the Fourteenth Amendment and contrary to *C. I. R.* v. *Bedford Estates,* 325 U.S. 283 (Rec. 3, page 3).

2. The Appellate Court exercised original jurisdiction, a power given to the Appellate Court by the Illinois Constitution of 1870, as amended, effective January 1, 1964, Art. VI, Sec. 7, 1970 Constitution Art. VI, Sec. 6, in every case to wit:

*Thompson* v. *County Board of School Trustees, et al.,* and *People Ex Rel. Thompson* v. *County Board of School Trustees, et al.,* Illinois Supreme Court No. 44360 and 44038, also 71-235 in this court. In the first school boundary case above the trial court ruled that Petitioner, Margaret E. Thompson lacked standing to sue. The Appellate Court ruled that this would be inconsistent, in other words Petitioner did have the right to sue, but, the court did not stop there, it ruled that the cause was not sufficient when the cause was not raised or passed upon by the trial court; this is exercising original jurisdiction.

In the second school boundary case, the trial court gave Merrill Gates, without his official title, individually, and County Board of Supervisors, no county, 30 days to answer, this was appealed to the Appellate Court on the grounds that it made a trial de novo, and denied Petitioner the records. The County Board of School Trustees did not appear in the trial court. The Appellate Court exercised original jurisdiction by dismissing the appeal on its own motion, without giving a reason, contrary to Chap. 37, Sec. 41, Ill. Rev. Stat., and leaving the question of "Where the State Superintendent is legal advisor to all school officers may the State's Attorney defend a school officer against that legal advice" unanswered.

In the Tax Objection Cases, which include both personal property and real estate taxes for the years 1967, 1968 and 1969, People Ex Rel. Elmer J. Hoffman, James H. Clark, et al., etc. v. Thompson, et ux, Illinois Supreme Court Nos. 44360 and 43928, also 71-234 in this Court, the trial Court had overruled a protest number claiming no case was filed. The Appellate Court exercised original jurisdiction since it was the first court to rule on the cases. The trial court refused to look at the court records. The Appellate Court dismissed the appeal on a motion that nothing was done by Petitioners after the taxes were paid under protest, which was false.

Petitioners submit that original jurisdiction in an Appellate Court is contrary to our complete court system, the Common Law, and a violation of the due process clause of the Fourteenth Amendment; that the above petitions to appeal as a matter of right must be heard by the Supreme Court of Illinois.

3. That the aforesaid judgments are beyond the powers of the Appellate Court in that all the above cases were

revenue related and appealable directly to the Illinois Supreme Court, Rule 301. The first school boundary case, *Thompson* v. *County Board of School Trustees, et al.,* Appellate Court No. 70-80, 265 N.E. 2d 168, was appealed directly to the Illinois Supreme Court, transferred to the Appellate Court along with a Motion by Petitioner to incorporate a certain Bond Issue in the records.

Petitioners submit that standing is a constitutional question, and that a bond issue is a revenue matter, that the Supreme Court of Illinois lacked the power to transfer the case.

The Appellate Court opinion, "The allegations that the proceedings of the "Boundary Study Steering Committee" included "the intent of detaching further territory from school district 86 and possibly from school district 53 causing tax losses to both districts . . . " are far too vague and conjectural to establish the right to bring this suit". Tax loss is a revenue related matter. The Appellate Court was incompetent and lacked jurisdiction to rule on the matter, that this is a constitutional question arising for the first time by the Appellate Court exercising original jurisdiction making review by the Illinois Supreme Court mandatory. That the manner in which taxes are assessed to support school districts making each district try to develop its own industrial park so it can have enough money per pupil, and the State giving more money for the support of education in one type of school district organization than in another is contrary to *Brown, et al.* v. *Board of Education of Topeka, et al.,* 347 U.S. 483. The State must provide equal education for its children.

In the second school boundary case in the Appellate Court No. 70-155, the entire case was revenue related, but, appealing cases directly to the Illinois Supreme Court was

futile. For the Petitioners to file Briefs in one court and the Respondents (Defendants), to answer in a different court is a distinct disadvantage.

There can be no question that the tax cases No. 70-220 in the Appellate Court were revenue related and that they should have been transferred to the higher Court. There can be no doubt that the Supreme Court of Illinois had jurisdiction of all these cases on appeal from the beginning.

4. If the Illinois Supreme Court had not acted on this case in a special session of that court a prior case, *Thompson* v. *Board of Commissioners of the Oak Brook Park District,* 71-761 now in this court, would have been the controlling factor. The same arguments about the appellate court's final orders and jurisdiction are in that case. It was completely filed before this one.

If the court acted on this case in a June Special Session to separate it from the above Park Board Case, this constitutes constructive fraud.

Final Order in this case entered June 24, 1971, printed in full Appendix, Page 1, Rec. 4, shows that it is certified as being a May Session, whereas the Notice to Petitioners (App. p. 3), shows that it was a June Session. Petitioners suggest that this final Order is a falsified document. The Illinois Supreme Court adjourned its May Session before Memorial Day.

II. There were also intervening circumstances of substantial or controlling effect.

1. On October 6, 1971, Mr. Howard K. Kellett, Clerk of the Appellate Court of Illinois, Second District, reduced the policy or rule of that court to writing for the first time; decisions or judgments of that court "become final contingent upon the decision of the Supreme Court of Illinois".

Petitioners submit that when it is the final judgments that are appealed from, this policy is in violation of the due process clause of the Fourteenth Amendment.

2. On November 18, 1971, Notice was sent from the Appellate Court that the Mandate in *Thompson* v. *Hoffman*, 71-234 was being sent to the trial court not only pursuant to rules but upon request of the office of the State's Attorney. Appendix, P. 4. There is no appellee.

Since the trial court judgments were not final in those cases, Petitioners appeared in the trial court on November 22, 1971 on the alleged Application for Judgment, Case No. C 71-604. There was no application, no protested taxes were included in the Judgment books. Since the trial court had ruled that it was the Collectors Case on August 12, 1970 in the case at bar, Petitioners submit that the trial court has never had jurisdiction of their tax objections nor that of any other taxpayer. Application has never been made, the collector's cases are non esse.

3. On December 13, 1971, upon discovering that there was an affidavit of the Collector filed with the Clerk of the Court stating that taxes paid under protest *were* in the Judgment books, when he had testified in court, under oath, that they *were not,* Petitioners ordered a short record to be prepared for appeal in Case No. C 71-604. There were words; the affidavit was falsified; if the Clerk certified the affidavit of the Collector as the application the clerk's certification would also be false. The Clerk's Office apologized, Appendix, P. 5. A Notice of Appeal was filed on December 20, 1971, but res judicata has to set in some place, how can you keep arguing the same issues in the same court between the same parties.

4. On November 22, 1971, in Case No. C 71-604, the trial court ruled in a violent controversy, that both the State's

Attorney and the Petitioners should write him a letter setting forth what was meant by a conference in Sec. 675A, Chap. 120, Ill. Rev. Stat. over Petitioner's objections that the matter had already been argued and was in this court. However, the Order entered states that there shall be a hearing between the Objectors and the State's Attorney's Office. Petitioners submit that a pretrial conference is a conference held by the court pursuant to Rules, Petitioners Petition (Appendix p. 10), and must be held in open Court.

Petitioners need the records and are supported in taking depositions and obtaining records by *Jackson* v. *People,* 9 Mich. 111, where it is stated, "and want of jurisdiction, when arising from matters not appearing in any way on the proceedings, may even be shown aliunde by affidavits."

5. The question of two or more taxing districts joining together to perform a single service when the boundaries of one district are not the same as the service area of the other has been sanctioned in the new 1970 Illinois Constitution. Art. VII, Sec. 10, Intergovernmental Cooperation, Appendix P. 7, and has also been sanctioned by case law, *People Ex Rel. Richard B. Ogilvie* v. *John W. Lewis Secretary of State,* No. 44488, Illinois Supreme Court as set forth in the Park Board Petition Case No. 71-761 Appendix, P. 15, "or two or more of the foregoing acting jointly." Neither the Appellate Court opinion in this case, nor the Ogilvie Case explore the ramifications of this joint action complained of by Petitioners in every case. It was presented and ruled upon in the trial court, ignored by the Appellate Court, has been before the administrative agencies and was ruled on by the State Superintendent of Public Instruction. The ruling by the Superintendent was in favor of Petitioners.

Petitioners submit that this is a substantial question that needs to be answered by this court. Judicial review of administrative action is on the effect on legal rights, this joint action is one of the major causes, since it denies the right to Petition the government for a redress of grievances, due process and equal protection of the law.

6. It has become apparent since the petition was filed that none of the trial court judgments were proper or final at the time of entry in these cases. In the tax cases the court had the power to "hear and determine the matter, according to the right of the case and enter judgment for any part of the taxes . . . " Petitioners submit that what is right and what is wrong is different from what is legal and what is illegal. What is legal might be what is right but what is right is not necessarily what is legal. This is supported by English Common Law where the King could convene a body to determine what was right. The trial court did have the duty to order the collector to distribute or refund the money. The trial court orders are all invalid, because they are not proper and final, Sec. 675, Chap. 120, Ill. Rev. Stat.

On the school boundary cases the trial court, pursuant to Sec. 275, Chap. 110, Ill. Rev. Stat., had the power to dismiss parties, to affirm or reverse the decision, to complete the record, to remand. It did not have power to dismiss the complaint or grant to an elected official the right to appear individually when named officially. The trial court has not affirmed the decisions of the County Board of School Trustees in either case rendering the judgments invalid. Both cases pursuant to Chap. 122, Sec. 7-7, Ill. Rev. Stat. are stayed by this appeal. To this point none of the cases included in this action has prevented any agency from any action.

7. On December 20, 1971, William V. Hopf, State's Attorney through Ralph J. Gust, Jr., Assistant State's Attorney returned Petitioners' Notice to him of the docket number and date in *Thompson* v. *Board of Commissioners of the Oak Brook Park District,* No. 71-761, he did not return the Petitions, when in March of 1971 the State's Attorney's office had agreed with Petitioners, that quite aside from whether Colin Couper could appear individually or not, that if the Park Board was expending Park District money for Couper's private expenses, they would have to replace the money.

Mr. Gust says, Appendix, P. 6, "The Park District has its own attorneys handling this matter." How does he know this? The opposing counsel in that case have claimed they were representing Colin Couper. To them Colin Couper is the defendant-appellee, and respondent, no one is representing the Park Board or Park District. This matter is in the tax objection cases, but the State's Attorney never notified the taxing districts, which shows complete bias and prejudice on the part of the courts. Petitioners did notify the proper parties, the State's Attorney did not notify anyone.

This is the same problem of representing Merrill Gates, individually in the trial court and switching to representing the County Board of School Trustees in the Appellate Court when they had not appeared in the trial court.

8. Petitioners have the right to a hearing of these cases on the merits by some Illinois Court either under the Administrative Review Act or under the Illinois Revenue Act, or both. At present there is no recourse against any action of these governmental agencies. Appeal to the Supreme Court of Illinois is a guaranteed right that cannot be denied, both in revenue cases and when constitutional questions arise on action of the Appellate Court.

Wherefore, for the above reasons we respectfully request that this petition for a rehearing be granted and that certiorari be granted, the judgments vacated and the case be remanded to the Supreme Court of Illinois directing that court to hear and answer the questions that will insure proper functioning of the Illinois Courts so that Petitioners may have a full hearing on all cases and obtain any records necessary including bank records or in the alternative that this Court grant rehearing of the order of denial, vacate that order, grant the petition and review the judgments below or any other thing this Court deems lawful and proper to insure relief as to Petitioners.

Respectfully submitted,

RALPH B. THOMPSON AND
MARGARET E. THOMPSON,
*Petitioners, Pro Se*

STATE OF ILLINOIS )
) SS.
COUNTY OF COOK )

**Affidavit In Lieu Of Certificate Of Counsel**

Margaret E. Thompson, being first duly sworn, deposes and says: that this petition for rehearing is presented in good faith and belief that Petitioners overlooked substantial grounds; that intervening circumstances have occurred to substantiate their claims and further that the petition is made for the above reasons only and not for delay and is restricted to the grounds specified in Rule 58(2).

.....

MARGARET E. THOMPSON,
*For the Petitioners*

Subscribed and Sworn to

Before me this ..... day of

December, 1971.

.....

Notary Public

## APPENDIX A

UNITED STATES OF AMERICA

STATE OF ILLINOIS )
) ss.
SUPREME COURT )

At a Term of the Supreme Court, begun and held in Springfield, on Monday, the tenth day of May, in the year of our Lord, one thousand nine hundred and seventy-one, within and for the State of Illinois.

PRESENT:

Robert C. Underwood, Chief Justice

Justice Walter V. Schaefer

Justice Daniel P. Ward

Justice Joseph H. Goldenhersh

Justice Thomas E. Kluczynski

Justice Charles H. Davis

Justice Howard C. Ryan

William J. Scott, Attorney General

Robert G. Miley, Marshal

Attest: Justin Taft, Clerk

BE IT REMEMBERED, that, to-wit: on the 24th day of June, A.D. 1971, the same being one of the days of the term of Court aforesaid, the following proceedings were, by said Court, had and entered of record, to-wit:

PEOPLE, ex rel. ELMER J. HOFFMAN, now JAMES H. CLARK, County Collector, etc., et al.,

*Respondents,*

No. 44360 vs.

RALPH B. THOMPSON, et al., etc.,

*Petitioners.*

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Redress of Grievances

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And now, on this day, the Court having duly considered the motion by petitioners for reconsideration of the order denying motion for redress of grievances, and being fully advised of and concerning the premises;

IT IS HEREBY ORDERED that the motion by petitioners for reconsideration of the order denying motion for redress of grievances be, and the same is, denied.

## APPENDIX B

State of Illinois

Office of

CLERK OF THE SUPREME COURT

Springfield

62706

June 14, 1971

Mrs. Margaret E. Thompson
P. O. Box 133
Hinsdale, Illinois 60521

Dear Mrs. Thompson:

Your motion by petitioners for reconsideration of the order denying motion for redress of grievances,
In re:

People ex rel. Elmer J. Hoffman,
etc., et al., respondents

vs.

Ralph B. Thompson, et al., etc.,
petitioners

received and filed June 14, 1971, under General Number 44360. Your motion will be presented to the Supreme Court on June 21, 1971, when it convenes for the June Session, and you will be advised as to its disposition.

Very truly yours,

*Justin Taft*
Clerk of the Supreme Court

## APPENDIX C

State of Illinois
Appellate Court Second District
Elgin
60120

November 18, 1971

Howard K. Kellett
Clerk

312-695-3750

Hon. Robert M. Haenisch
Clerk of the Circuit Court
Court House
Wheaton, Il. 60187

Re: In Matter of the Application of Elmer J. Hoffman, County Collector for Judgment and Sale of Lands and Lots Delinquent in Payment of Taxes for the year 1967
(Ralph B. Thompson and Margaret E. Thompson, his wife, appellants)

Gen. No. 70-220

(T. C. Nos. C68-859-469
C68-859-470
C69-484-98
C69-484-99
C70-695-51)

Dear Mr. Haenisch:

In compliance with the provisions of Supreme Court rule 368 and at the request of the office of the States Attorney for DuPage county, I am herewith enclosing certified

copy of the final order of this Court in the above entitled cause.

Kindly receipt therefor on copy of letter enclosed and return.

Very truly yours,
Howard K. Kellett, Clerk

s

Margaret E. Thompson

Wm V. Hopf

Ralph J. Gust, Jr.

Blair Varnes

Mrs. Thompson,

In checking and rereading what I thought was the application, they are affidavits of the Co. Treas. Please accept my apology.

Circuit Clerk's Office
County Division
Marlene

HAPPY HOLIDAYS

December 14, 1971

## APPENDIX D

WILLIAM V. HOPF
State's Attorney
DuPage County
Wheaton, Illinois 60187
General Number 682-7050

Edward W. Kowal
First Assistant

December 20, 1971

Mrs. Margaret E. Thompson
Box 133
Hinsdale, Illinois 60521

Dear Mrs. Thompson:

Enclosed are the documents which you have forwarded to our office. This letter is to notify you that we are not of counsel in the matter of *Margaret E. Thompson* v. *Board of Commissioners of the Oak Brook Park District of DuPage County, Illinois.*

The Park District has its own attorneys handling this matter.

Very truly yours,

*Ralph J. Gust, Jr.*
Assistant State's Attorney

RJG:pas
Encs.

# PROPOSED 1970 CONSTITUTION FOR THE STATE OF ILLINOIS

* * *

## ARTICLE VII

* * *

## LOCAL GOVERNMENT

### SECTION 10. INTERGOVERNMENTAL COOPERATION

(a) Units of local government and school districts may contract or otherwise associate among themselves, with the State, with other states and their units of local government and school districts, and with the United States to obtain or share services and to exercise, combine, or transfer any power or function, in any manner not prohibited by law or by ordinance. Units of local government and school districts may contract and otherwise associate with individuals, associations, and corporations in any manner not prohibited by law or by ordinance. Participating units of government may use their credit, revenues, and other resources to pay costs and to service debt related to intergovernmental activities.

(b) Officers and employees of units of local government and school districts may participate in intergovernmental activities authorized by their units of government without relinquishing their offices or positions.

(c) The State shall encourage intergovernmental cooperation and use its technical and financial resources to assist intergovernmental activities.

* * * * *

This section is new. It permits governments at all levels to cooperate in working out common problems. Thus, one local government can contract with another government or private parties to share services and divide the costs equitably.